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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TERRY L. STORY, )  
 )  
Defendant. )

No. 3-05-70974 EDL

~~PROPOSED~~ ORDER AND STIPULATION  
WAIVING TIME UNDER RULE 5.1 AND  
EXCLUDING TIME FROM DECEMBER  
29, 2005 TO JANUARY 9, 2006 FROM THE  
SPEEDY TRIAL ACT CALCULATION  
(18 U.S.C. § 3161(h)(8)(A))

The parties appeared before the Honorable Nandor J. Vadas on December 29, 2005. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a new preliminary hearing/arraignment date of January 9, 2006 at 9:30 a.m., before the Honorable Joseph C. Spero; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from December 29, 2005 to January 9, 2006. The parties agreed, and the Court found and held, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny both defense and government counsel reasonable time necessary for effective preparation, taking

STIPULATION AND ORDER  
3-05-70974 EDL

1 into account the exercise of due diligence, and would deny the defendant continuity of counsel.

2 2. Counsel for the defense believes that postponing the preliminary hearing is in his  
3 client's best interest, and that it is not in his client's interest for the United States to indict the  
4 case before the currently scheduled preliminary hearing date.

5 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to  
6 grant the requested continuance would unreasonably deny both government and defense counsel  
7 reasonable time necessary for effective preparation, taking into account the exercise of due  
8 diligence, and would deny the defendant and the government continuity of counsel.

9 4. Given these circumstances, the Court found that the ends of justice served by  
10 excluding the period from December 29, 2005 to January 9, 2006, outweigh the best interest of  
11 the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

12 5. Accordingly, and with the consent of the defendant, the Court ordered that the period  
13 from December 29, 2005 to January 9, 2006, be excluded from Speedy Trial Act calculations  
14 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

15 4. The Court scheduled a new preliminary hearing/arraignment date of January 9, 2006,  
16 at 9:30 a.m., before the Honorable Joseph C. Spero.

17 IT IS SO STIPULATED.

18  
19 DATED: 12/29/05

/s/  
\_\_\_\_\_  
TRACIE L. BROWN  
Assistant United States Attorney

20  
21  
22 DATED: 12/30/05

/s/  
\_\_\_\_\_  
ELIZABETH FALK  
Attorney for TERRY L. STORY

23  
24 IT IS SO ORDERED.

25  
26 DATED: 1/9/06

  
\_\_\_\_\_  
THE HON. NANDOR J. VADAS  
United States Magistrate Judge